

ORDINANCE NO. 07-02

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW REPLATTING OF PROPERTY INTO THREE SUBSTANDARD SINGLE-FAMILY LOTS: LOT 1, HAVING A WIDTH OF 55.1 FEET, WHERE 75 FEET ARE REQUIRED, A DEPTH OF 92.05 FEET, WHERE 100 FEET ARE REQUIRED, AND A TOTAL AREA OF 5,071, MORE OR LESS, WHERE 7,500 SQUARE FEET ARE REQUIRED, FOR CONSTRUCTION OF A NEW RESIDENCE; LOT 2, HAVING A WIDTH OF 52 FEET, WHERE 75 FEET ARE REQUIRED, A DEPTH OF 92 FEET, WHERE 100 FEET ARE REQUIRED, AND A TOTAL AREA OF 4,784 SQUARE FEET, MORE OR LESS, WHERE 7,500 SQUARE FEET ARE REQUIRED, FOR AN EXISTING RESIDENCE WITH A REAR SETBACK OF 13.8 FEET AND A FRONT SETBACK OF 6.5 FEET, WHERE AT LEAST 20 FEET ARE REQUIRED FOR EACH; AND LOT 3, HAVING AN AVERAGE WIDTH OF 50.73 FEET, WHERE 75 FEET ARE REQUIRED, AVERAGE DEPTH OF 91.35 FEET, WHERE 100 FEET ARE REQUIRED, AND A TOTAL AREA OF 4,634 SQUARE FEET, MORE OR LESS, WHERE 7,500 SQUARE FEET ARE REQUIRED, FOR THE CONSTRUCTION OF A NEW RESIDENCE WITH A NORTH SIDE SETBACK OF 3 FEET, WHERE 5 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98-499, 98-500 AND 98-502. **PROPERTY LOCATED AT 2675 EAST 7 AVENUE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Hialeah, Florida, at its regular meeting of November 28, 2006, directed the Law Department to provide this ordinance overriding the Planning and Zoning Board's recommendation of denial at its meeting of November 8, 2006.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The below-described property is hereby granted a variance permit to allow replatting of property into three substandard single-family lots: Lot 1, having a width of 55.1 feet, where 75 feet are required, a depth of 92.05 feet, where 100 feet are required, and a total area of 5,071, more or less, where 7,500 square feet are required, for construction of a new residence; Lot 2, having a width of 52 feet, where 75 feet are required, a depth of 92 feet, where 100 feet are required, and a total area of 4,784 square feet, more or less, where 7,500 square feet are required, for an existing residence with a rear setback of 13.8 feet and a front setback of 6.5 feet, where at least 20 feet are required for each; and Lot 3, having an average width of 50.73 feet, where 75 feet are required, average depth of 91.35 feet, where 100 feet are required, and a total area of 4,634 square feet, more or less, where 7,500 square feet are required, for the construction of a new residence with a north side setback of 3 feet, where 5 feet are required, contra to Hialeah Code §§ 98-499, 98-500 and 98-502, which provide in pertinent part: "The minimum building site in the R-1 one-family district, shall be one lot or parcel of land containing at least 7,500 square feet of area for each one-family residence. Such parcels or lots shall have an average width of at least 75 feet and shall also have a minimum average depth of 100 feet," " . . . there shall be a front yard depth not less than 20 feet . . . " and "In the R-1 one-family district, every principal residential building shall provide a rear yard of a minimum depth of 20 feet . . . ," respectively. Property located at 2675 East 7 Avenue,

Hialeah, Miami-Dade County, zoned R-1 (One Family District), Florida and legally described as follows:

LOTS 1 AND 2, BLOCK 40B, AMENDED PLAT OF THE AMENDED PLAT OF THE THIRTEENTH ADDITION TO HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGE 26, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; TOGETHER WITH THE NORTH ½ OF THE ADJACENT 12-FOOT ALLEY VACATED AND CLOSED FOR PUBLIC USE PURSUANT TO HIALEAH, FLA., ORDINANCE 94-104 (NOV. 25, 1994).

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 9th day of January, 2007.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



Esteban Bovo
Council President

Attest:


Approved on this ____ day of _____, 2007.

MAYOR'S SIGNATURE WITHHELD

Rafael E. Granado, City Clerk

Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodick, City Attorney

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Ordinance was adopted by a 5-2 vote with Councilmembers Bovo, Casals-Muñoz, Gonzalez, Hernandez and Miel voting "Yes", Councilmember Caragol and Yedra voting "No".

Ordinance was passed and adopted by the Hialeah City Council on January 9, 2007 and became effective January 23, 2007 without Mayor's signature.